

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

-against-

**AMIT BHARDWAJ, DHIRENKUMAR
PATEL, SRINIVASA KAKKERA,
ABBAS SAEEDI, and RAMESH CHITOR,**

Defendants.

1:22-cv-06277 (ALC)

[PROPOSED] FINAL JUDGMENT AS TO DEFENDANT DHIRENKUMAR PATEL

The Securities and Exchange Commission having filed a Complaint and Defendant Dhirenkumar Patel (“Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment; waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of

interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Defendant is prohibited, for seven years and six months following the date of entry of this Final Judgment, from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$423,074, representing his ill-gotten gains as a result of the conduct

alleged in the Complaint, together with prejudgment interest in the amount of \$19,318, for a total of \$442,392. The obligation to pay this amount of disgorgement and prejudgment interest is deemed satisfied by entry of the order of forfeiture against Defendant in the related criminal case, *United States v. Patel*, 22 Cr. 369 (VSB) (S.D.N.Y.) (Dkt. No. 35).

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the allegations in the complaint are true and admitted by Defendant, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under this Final Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

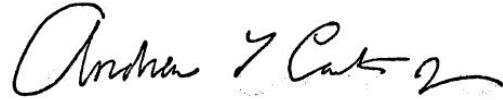
VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

VII.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: September 24, 2024

A handwritten signature in black ink, appearing to read "Andrew L. Carter, Jr.", written over a horizontal line.

UNITED STATES DISTRICT JUDGE
Andrew L. Carter, Jr.

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

-against-

**AMIT BHARDWAJ, DHIRENKUMAR
PATEL, SRINIVASA KAKKERA,
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Defendants.

1:22-cv-06277 (ALC)

CONSENT OF DEFENDANT DHIRENKUMAR PATEL

1. Defendant Dhirenkumar Patel (“Defendant”) acknowledges having waived service of a summons and complaint in this action, enters a general appearance, and admits the Court’s jurisdiction over Defendant and over the subject matter of this action.
2. Defendant has pleaded guilty to criminal conduct relating to certain matters alleged in the complaint in this action. Specifically, in *United States v. Dhirenkumar Patel*, Crim. No. 22 CR 369 (VSB) (S.D.N.Y.), Defendant pleaded guilty to violations of conspiracy to commit securities fraud [18 U.S.C. § 371], conspiracy to commit securities fraud and wire fraud [18 U.S.C. § 1349], Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §§ 78j(b), 78ff] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], and conspiracy to obstruct justice [18 U.S.C. § 371]. In connection with that plea, Defendant admitted the facts set out in the transcript of his plea allocution that is attached as Exhibit A to this Consent.

3. Defendant hereby consents to the entry of the final Judgment in the form attached hereto (the “Final Judgment”) and incorporated by reference herein, which, among other things, (a) permanently restrains and enjoins Defendant from violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], (b) orders that Defendant is liable for disgorgement in the amount of \$423,074 and prejudgment interest in the amount of \$19,318, but deems the obligation to pay those amounts satisfied by entry of the order of forfeiture against him in *United States v. Dhirenkumar Patel*, Crim. No. 22 CR 369 (VSB) (S.D.N.Y.) (Dkt. No. 35); and (c) prohibits Defendant, for seven years and six months following the date of entry of this Final Judgment, from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

4. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

5. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

6. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendant to enter into this Consent.

7. Defendant agrees that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

8. Defendant will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

9. Defendant waives service of the Final Judgment and agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Final Judgment.

10. Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this

action, Defendant understands that he shall not be permitted to contest the factual allegations of the complaint in this action.

11. Defendant understands and agrees to comply with the terms of 17 C.F.R. § 202.5(e), which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." As part of Defendant's agreement to comply with the terms of Section 202.5(e), Defendant acknowledges the guilty plea for related conduct described in paragraph 2 above, and: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the complaint, or that this Consent contains no admission of the allegations; (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the complaint; and (iv) stipulates for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, that the allegations in the complaint are true, and further, that any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under the Final Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19). If Defendant breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph

affects Defendant's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

12. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have reached a good faith settlement.

13. In connection with this action and any related judicial or administrative proceeding or investigation commenced by the Commission or to which the Commission is a party, Defendant (i) agrees to appear and be interviewed by Commission staff at such times and places as the staff requests upon reasonable notice; (ii) will accept service by mail or facsimile transmission of notices or subpoenas issued by the Commission for documents or testimony at depositions, hearings, or trials, or in connection with any related investigation by Commission staff; (iii) appoints Defendant's undersigned attorney as agent to receive service of such notices and subpoenas; (iv) with respect to such notices and subpoenas, waives the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, provided that the party requesting the testimony reimburses Defendant's travel, lodging, and subsistence expenses at the then-prevailing U.S. Government per diem rates; and (v) consents to personal jurisdiction over Defendant in any United States District Court for purposes of enforcing any such subpoena.

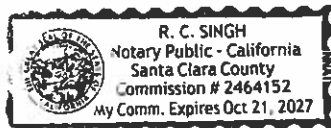
14. Defendant agrees that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

15. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: 19-Aug-2024


Dhirenkumar Patel


On 08/19/, 2024, DHIRENKUMAR PATEL, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.




Notary Public

Commission expires: 08/21/2027

Approved as to form:


Vlad Shafran
Krieger Lewin LLP
350 Fifth Avenue
77th Floor
New York, NY 10118
Vlad.Shafran@KriegerLewin.com
Attorney for Defendant

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California, County of Santa Clara ss. On 08/19/2024 before me R.C. Singh, Notary Public, personally appeared DHIRENKUMAR PATEL who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal.



EXHIBIT A

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
-----x
3 UNITED STATES OF AMERICA

4 v.

22 CR 369 (VSB)

5 DHIRENKUMAR PATEL

6 Defendant
-----x

7 New York, N.Y.
8 July 7, 2022
10:10 a.m.

9 Before:

10 HON. VERNON S. BRODERICK
11 District Judge

12 APPEARANCES

13 DAMIAN WILLIAMS
14 United States Attorney for the
Southern District of New York
15 NOAH SOLOWIEJCZYK
16 RICHARD A. COOPER
Assistant United States Attorney

17 KRIEGER KIM & LEWIN LLP
Attorneys for Defendant
18 VARUN GUMASTE
EDWARD KIM

19
20 ALSO PRESENT: JORDAN AVERY, FBI
21 VIOSANNY HARRISON, USPTO (SDNY)
MADELINE KAPLAN, Analyst (Krieger Kim Lewin)

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(In open court)

THE COURT: If I could ask counsel to please identify themselves for the record.

MR. SOLOWIEJCZYK: Good morning, your Honor. Noah Solowiejczyk and Richard Cooper on behalf of the government. We're joined at counsel's table by Special Agent Jordan Avery of the FBI and by the pretrial officer whose name I don't know. Apologies.

THE COURT: That's okay. Officer Harrison; is that correct?

MS. HARRISON: Yes. Good morning.

THE COURT: Good morning.

For the defense.

MR. GUMASTE: Good morning, your Honor. Varun Gumaste and Edward Kim on behalf of Mr. Patel. We're joined at counsel table by one of our analysts, Madeline Kaplan.

THE COURT: Good morning.

MR. GUMASTE: Good morning.

THE COURT: You know, let me just clarify something. With regard to -- this is Mr. Patel's first appearance?

MR. SOLOWIEJCZYK: Yes, it is, your Honor.

THE COURT: All right. Now, Mr. Patel, my name is Judge Broderick, as you've heard. The purpose of this proceeding is to inform you of your rights. In fact, throughout the pendency of the Rule 5 hearing and the waiver of

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1 indictment, arraignment and then guilty plea, there is no need
2 to stand. I just ask that you speak into the microphone so
3 that we can make sure we have an accurate record.

4 As I mentioned, the purpose of this proceeding is to
5 inform you of certain rights that you have, inform you of the
6 charges against you, consider whether counsel should be
7 appointed and decide the conditions under which you should be
8 released.

9 Now, you have the right to remain silent, and you're
10 not required to make any statements. So even if you've made
11 statements already to the authorities, there is no need to make
12 any further statements. Anything you say can be used against
13 you. You have the right to be released, either conditionally
14 or unconditionally, pending trial unless I find there are no
15 conditions that would reasonably assure your presence in court.

16 Now, as I understand it, you are represented by
17 counsel. Is that correct?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: And counsel is sitting next to you, so is
20 that Mr. Gumaste and Mr. Kim?

21 MR. GUMASTE: Yes, your Honor.

22 THE COURT: Now, you should understand that if you
23 could not afford an attorney, one could be obtained for you
24 free of charge to you. Do you understand that?

25 THE DEFENDANT: Yes, your Honor.

M77QpatP

1 THE COURT: Let me ask, Mr. Kim, Mr. Gumaste, are you
2 retained or CJA?

3 MR. GUMASTE: We're retained, your Honor.

4 THE COURT: All right. Thank you.

5 So let me ask, have you seen a copy of the sealed
6 information containing the charges against you, Mr. Patel?

7 THE DEFENDANT: Yes, sir, your Honor.

8 THE COURT: And I take it, Mr. Kim and Mr. Gumaste,
9 you've both seen a copy of this sealed information?

10 MR. GUMASTE: Yes, we have, your Honor.

11 THE COURT: Have you reviewed it with your client?

12 MR. GUMASTE: Yes, we have.

13 THE COURT: Do you waive its public reading or,
14 Mr. Patel, would you like me to read it to you?

15 THE DEFENDANT: Your Honor, I waive a public reading.

16 THE COURT: Thank you. Let me ask, Mr. Patel, are you
17 a citizen of the United States?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: All right. I think it makes sense that I
20 handle the bail issue after I do the rest of the proceedings.
21 Does that make sense to the government?

22 MR. SOLOWIEJCZYK: Yes, your Honor.

23 THE COURT: To the defense?

24 MR. GUMASTE: Yes, your Honor.

25 THE COURT: Thank you.

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1 Mr. Patel, you've received a copy of the information.
2 Is that correct?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Am I correct that you waive its public
5 reading?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Have you had an opportunity to go over
8 with your attorneys the charges contained in that information?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Now, those charges include conspiracy to
11 commit securities fraud in Count One, conspiracy to commit
12 securities fraud and wire fraud in Count Two, securities fraud
13 in Count Three, and conspiracy to obstruct justice in Count
14 Four. Is that correct?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Let me ask initially, how do you plead?

17 THE DEFENDANT: Not guilty, your Honor.

18 THE COURT: All right. Thank you.

19 As I understand it, you have a copy of the
20 information. Earlier today, did you sign a waiver of
21 indictment form?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you have a copy of it in front of you?
24 If not, Ms. Rodriguez, if you could show a copy of the waiver
25 of indictment form to Mr. Patel.

M77QpatP

1 Let me ask, Mr. Patel, if you could look at that
2 document, does your signature appear at the bottom of that
3 document?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Did you sign that earlier today in the
6 presence of your attorneys?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: And did they explain it to you?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Ms. Rodriguez, you can take the form back.
11 Mr. Patel, you should understand that you are under no
12 obligation to waive indictment. Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: And do you understand that if you were not
15 to waive indictment and the government wanted to prosecute you,
16 it would have to present your case to the grand jury, which may
17 or may not indict you. Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand that by waiving
20 indictment, you're giving up your right to have this case
21 presented to a grand jury?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: And do you understand what a grand jury
24 is?

25 THE DEFENDANT: Yes, your Honor.

M77QpatP

1 THE COURT: Now, let me ask, does either counsel know
2 of any reason I should not find that Mr. Patel has knowingly
3 and voluntarily waived his right to be indicted by a grand
4 jury?

5 MR. SOLOWIEJCZYK: No, your Honor.

6 THE COURT: All right.

7 MR. GUMASTE: No, your Honor.

8 THE COURT: Okay. Thank you. We'll take care of
9 getting the waiver of indictment form signed -- excuse me --
10 witnessed by my deputy clerk and filed.

11 Now, I find, Mr. Patel, that you're knowingly and
12 voluntarily waiving your right to be indicted by a grand jury,
13 so I'm going to authorize the filing of the sealed information.

14 Now, before I accept your plea, Mr. Patel, I'm going
15 to ask you certain questions so that I can establish to my
16 satisfaction that you wish to plead guilty because you are in
17 fact guilty and not for some other reason and to establish that
18 you know the rights you'll be giving up by pleading guilty.

19 If you don't understand any of my questions or if you
20 want some additional time to speak with your attorneys, just
21 let me know, and I'll either try and answer your question or
22 I'll give you as much time as you need to speak with your
23 attorneys in private. Okay?

24 THE DEFENDANT: Okay, your Honor.

25 THE COURT: All right. Ms. Rodriguez, if I could ask

M77QpatP

1 you to please swear Mr. Patel in.

2 (Defendant sworn)

3 THE COURT: Mr. Patel, you're now under oath, which
4 means if you answer any of my questions falsely, you may be
5 prosecuted for the separate crime of perjury. Do you
6 understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Now, what is your full name?

9 THE DEFENDANT: My full name is Dhirenkumar
10 Jaikrishnabhai Patel.

11 THE COURT: Could I ask you to spell your name for the
12 court reporter?

13 THE DEFENDANT: Yes. Dhirenkumar, D as in David
14 H-I-R-E-N as in Nancy K-U-M-A-R. Jaikrishnabhai,
15 J-A-I-K-R-I-S-H-N-A-B-H-A-I. Patel, P-A-T-E-L.

16 THE COURT: Great. Thank you. How old are you?

17 THE DEFENDANT: 50 years old, your Honor.

18 THE COURT: How far did you go in school?

19 THE DEFENDANT: I have master's degree.

20 THE COURT: All right. Have you ever been
21 hospitalized or treated for any mental illness?

22 THE DEFENDANT: No, your Honor.

23 THE COURT: Are you now or have you recently been
24 under the care of a doctor or psychiatrist?

25 THE DEFENDANT: No, your Honor.

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1 THE COURT: Have you ever been treated or hospitalized
2 for any type of addiction, including drug or alcohol addiction?

3 THE DEFENDANT: No, your Honor.

4 THE COURT: Have you taken any drugs, medicine or
5 pills or drunk any alcoholic beverages in the past 24 hours?

6 THE DEFENDANT: No, your Honor.

7 THE COURT: Is your mind clear today?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Do you understand what is happening today?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Now, let me ask, Mr. Gumaste, have you
12 discussed this matter with your client?

13 MR. GUMASTE: Yes, your Honor.

14 THE COURT: And does he understand the rights -- from
15 your perspective, does he understand the rights he'll be
16 waiving by pleading guilty?

17 MR. GUMASTE: I believe he does.

18 THE COURT: And, similarly, from your perspective, is
19 he capable of understanding the nature of these proceedings?

20 MR. GUMASTE: Yes, your Honor.

21 THE COURT: Let me ask, does either counsel have any
22 doubt as to Mr. Patel's competence to plead guilty at this
23 time? The government.

24 MR. SOLOWIEJCZYK: No, your Honor.

25 THE COURT: The defense.

M77QpatP

1 MR. GUMASTE: No, your Honor.

2 THE COURT: Now, on the basis of your responses to me,
3 Mr. Patel, here in court, my observations of you; in other
4 words, your demeanor, and the representations of counsel, I
5 find that you're fully competent to enter an informed plea of
6 guilty at this time.

7 Now, I know this is somewhat repetitive, but,
8 Mr. Patel, you've received a copy of the sealed information.
9 Is that correct?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: And did you read it?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: And I take it you waive its public reading
14 in connection with your guilty plea?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Now, have you had enough of a chance to
17 discuss with your attorneys the charges to which you intend to
18 plead guilty and any possible defenses to those charges?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Now, have your attorneys explained to you
21 the consequences of entering a guilty plea?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: And are you satisfied with your attorneys'
24 representations?

25 THE DEFENDANT: Yes, your Honor.

M77QpatP

1 THE COURT: Now, I'm going to explain to you certain
2 constitutional rights that you have. These are rights that you
3 are going to be giving up by pleading guilty. So, as I
4 mentioned earlier, listen carefully to what I'm about to say
5 and the questions I'm about to ask; and, again, if you don't
6 understand something, just stop me, and I'll try and explain it
7 to you more fully or I'll give you the time to speak with your
8 attorneys that you need. Okay?

9 THE DEFENDANT: Okay, your Honor.

10 THE COURT: All right. Now, under the Constitution
11 and laws of the United States, you have the right to plead not
12 guilty to the charges in the information. Do you understand
13 that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: And if you were to plead not guilty, you'd
16 be entitled to a speedy and public trial by a jury on the
17 charges contained in the information. Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Now, at a trial, you'd be presumed
20 innocent, and the government would be required to prove you
21 guilty by competent evidence beyond a reasonable doubt before
22 you could be found guilty. Do you understand that?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: A jury of 12 people would have to agree
25 unanimously that you were guilty, and you would not have to

M77QpatP

1 prove that you were innocent if you were to go to trial. Do
2 you understand that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: At a trial and at every stage of your
5 case, you're entitled to have an attorney. And if you were
6 unable to afford an attorney, one would be appointed to
7 represent you at public expense; in other words, free of cost
8 to you to represent you. Do you understand that?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Now, during a trial, the witnesses for the
11 government would have to come to court and testify in your
12 presence. Mr. Gumaste and Mr. Kim could cross-examine the
13 witnesses for the government, object to evidence offered by the
14 government, and offer evidence in your own behalf if you so
15 desired. You'd also have the right to have subpoenas or other
16 process issued to compel witnesses to come testify in your
17 defense. Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Now, at a trial, although you'd have the
20 right to testify if you chose to, you would also have the right
21 not to testify. And if you decided not to testify, no one,
22 including the jury, could draw any inference of guilt from the
23 fact you did not testify. Do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Have you had a full opportunity to discuss

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1 with your attorneys whether there's a basis to seek suppression
2 of some or all of the evidence against you on the grounds that
3 your constitutional rights were violated? In other words, to
4 keep all the evidence out against you, do you understand by
5 pleading guilty you're giving up that right? Do you understand
6 that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: So have you had an opportunity to talk
9 with your attorneys about those rights?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Now, if you were convicted at trial, you'd
12 have a right to appeal that verdict. Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: So even now as you're entering your guilty
15 plea, you have a right to change your mind and to go to trial
16 on the charges in the sealed information. Do you understand
17 that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Now, if you plead guilty and I accept your
20 plea, you're going to be giving up your right to trial and the
21 other rights I've just discussed, other than the right to a
22 lawyer which you have regardless -- excuse me -- regardless to
23 whether or not you plead guilty. But there will be no trial,
24 and I will enter a judgment of guilty and sentence on the basis
25 of your plea after I've considered a presentence report and

M77QpatP

1 whatever submissions I get from your attorneys and from the
2 government. There will be no appeal with respect to whether
3 the government could use the evidence that it has against you
4 or with respect to whether you did or did not commit these
5 crimes. Do you understand that?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Now, if you plead guilty, you'll also have
8 to give up your right not to incriminate yourself because in a
9 moment I'm going to ask you questions about what it is that you
10 did that makes you believe that you're guilty of the charges
11 contained in the information. Do you understand that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Do you understand each of the rights that
14 I've just discussed with you?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: And are you willing to give up your right
17 to trial and the other rights that I've just discussed?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Now, do you understand that you're charged
20 with conspiracy to commit securities fraud, conspiracy to
21 commit securities fraud and wire fraud, securities fraud, and
22 finally conspiracy to obstruct justice. Do you understand that
23 you're charged with that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: If I could ask the government to please

M77QpatP

1 state the elements of each of the offenses in question.

2 MR. SOLOWIEJCZYK: Yes, your Honor.

3 With respect to Count One, which is conspiracy to
4 commit Title 15 securities fraud, the government would have to
5 prove the following elements beyond a reasonable doubt:

6 First, that the charged conspiracy existed.

7 Second, that the defendant intentionally joined and
8 participated in the conspiracy during the applicable time
9 period.

10 And, third, that at least one of the co-conspirators
11 committed an overt act in furtherance of the conspiracy.

12 The object of the conspiracy charged in Count One is
13 securities fraud in violation of Title 15, United States Code
14 Section 78j(b) and 78ff, Title 17 Code of Federal Regulations
15 Sections 240.10b-5, and that offense has the following
16 elements:

17 First, that in connection with the purchase or sale of
18 securities, in this instance securities of Coherent, the
19 defendant employed a device, scheme, or artifice to defraud or
20 engage in an act, practice, or course of business that
21 operated, or would operate, as fraud or deceit upon a purchaser
22 or seller of the specified security.

23 Second, that when he engaged in this scheme, the
24 defendant acted knowingly, willfully, and with an intent to
25 defraud.

M77QpatP

1 And, third, that in furtherance of the scheme, there
2 occurred at least one use of any means or instrument of
3 transportation or communication in interstate commerce or the
4 use of the mails or the use of any facility of any national
5 securities exchange.

6 That's Count One, your Honor.

7 With respect to Count Two, Count Two charges a
8 conspiracy in violation of Title 18 United States Code, Section
9 1349 with two objects: One object being securities fraud;
10 second object being wire fraud.

11 With respect to Count Two, the government would have
12 to prove the following elements beyond a reasonable doubt:

13 First that the charged conspiracy existed.

14 And, second, that the defendant intentionally joined
15 and participated in the conspiracy during the applicable time
16 period.

17 As I mentioned, the conspiracy has two objects. With
18 respect to the first object, Title 18 United States Code,
19 Section 1348 securities fraud, that offense has the following
20 elements:

21 First, that the defendant executed a scheme to defraud
22 a person or to obtain money or property by materially false and
23 fraudulent pretenses, representations or promises.

24 And, second, that the defendant participated in the
25 scheme knowingly, willfully, and with an intent to defraud.

M77QpatP

1 And, third, that the scheme to defraud was connected
2 to the purchase or sale of stock in a company whose securities
3 were registered under Section 12 of the Securities Exchange Act
4 of 1934 or is otherwise required to file reports under that
5 act.

6 The second object of the conspiracy is wire fraud in
7 violation of Title 18 United States Code, Section 1343. That
8 offense has the following elements:

9 First, that there was a scheme or artifice to defraud
10 or to obtain money or property by materially false and
11 fraudulent pretenses, representations or promises.

12 Second, that the defendant knowingly and willfully
13 participated in the scheme or artifice to defraud with
14 knowledge of its fraudulent nature and with specific intent to
15 defraud.

16 And, third, that in the execution of that scheme, the
17 defendant used or caused the use of interstate or international
18 wires.

19 The third count in the information charges securities
20 fraud in violation of Title 15 United States Code, Section
21 78j(b) and 78ff, 17 CFR 240.10b-5; and to satisfy its burden,
22 the government would have to prove beyond a reasonable doubt
23 the elements I previously described as to securities fraud, the
24 object of the conspiracy charged in Count One. So I'm not
25 going to go over those again, your Honor.

M77QpatP

1 THE COURT: Okay.

2 MR. SOLOWIEJCZYK: And then, finally, with respect to
3 Count Four, the government would have to prove conspiracy in
4 violation of Title 18 United States Code, Section 371, and we'd
5 have to prove the following elements beyond a reasonable doubt:

6 First, that the charged conspiracy existed.

7 Second, that the defendant intentionally joined and
8 participated in the conspiracy during the applicable time
9 period.

10 And, third, that at least one of the co-conspirators
11 committed an overt act in furtherance of said conspiracy.

12 The object of that conspiracy, your Honor, is
13 obstruction of justice in violation of Title 18 United States
14 Code, Section 1503, and that offense has the following
15 elements:

16 First, that on or about the dates set forth in the
17 indictment -- I'm sorry -- in the information, your Honor,
18 there was a proceeding pending before a federal grand jury.

19 Second, that the defendant knew of the proceeding.

20 And, third, that the defendant corruptly acted to
21 obstruct or impede or endeavor to obstruct or impede those
22 proceedings.

23 And then, finally, your Honor, the government would
24 have to prove venue in the Southern District of New York by a
25 preponderance of the evidence as to all four counts.

M77QpatP

1 THE COURT: Okay. Now, Mr. Patel, did you hear what
2 the prosecutor just said?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Do you understand that if you were to go
5 to trial, the government would have to prove each of the
6 elements of the offenses that the prosecutor just mentioned
7 beyond a reasonable doubt with the exception of venue. Do you
8 understand that?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: All right. Now, Mr. Patel, I'm going to
11 tell you what the possible maximum penalties are that could be
12 imposed for these crimes. Now, that doesn't mean that that is
13 what you will necessarily receive, but you have to understand
14 that by pleading guilty, you're subjecting yourself to the
15 possibility of punishments up to the maximum I'm about to
16 describe. Okay?

17 THE DEFENDANT: Okay, your Honor.

18 THE COURT: First, with regard to restrictions on your
19 liberty, the maximum term of imprisonment for the crime charged
20 in Count One of the information is five years' imprisonment,
21 and you face a maximum of three years of supervised release.

22 With regard to Count Two of the information, you face
23 a maximum term of imprisonment of 20 years' imprisonment, and
24 you face a maximum term of supervised release on that charge of
25 three years.

M77QpatP

1 With regard to Count Three of the information, you
2 face a maximum term of imprisonment on that count also of 20
3 years' imprisonment and a maximum term of supervised release of
4 three years.

5 With regard to Count Four of the information, you face
6 a maximum term of imprisonment of five years and a maximum term
7 of supervised release of three years.

8 Now, you've heard me mention supervised release a few
9 times. What that means is you'll be subject to the supervision
10 of the probation department. There are going to be rules of
11 supervised release that you'll have to follow, and if you
12 violate those rules, you could be returned to prison, without a
13 jury trial, to serve additional time with no credit for the
14 time you served in prison as a result of your offense and no
15 credit for the time you spent on post release supervision. Do
16 you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: You should also understand that there's no
19 parole in the federal system, and that if you're sentenced to a
20 term of imprisonment, you won't be released early on parole.

21 Now, there is an opportunity for you to earn credit
22 for good behavior, but you'll have to serve at least 85 percent
23 of the time to which you're sentenced. Do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Now, sir, do you understand that the

M77QpatP

1 maximum term of incarceration for the four counts to which you
2 intend to plead guilty in the information is 50 years? Do you
3 understand that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Now, second, in addition to restrictions
6 on your liberty, there's certain maximum financial penalties
7 that you face.

8 Now, with regard to Counts One, Two and Four, you face
9 the possible maximum financial penalty of \$250,000, or twice
10 the gross gain derived from the offense or twice the gross loss
11 to persons other than yourself.

12 Now, with regard to Count Three, the maximum fine is
13 \$5 million, or twice the gross gain derived from the offense,
14 or twice the gross loss to persons other than yourself.

15 Now, do you understand that?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: I'm also required to order restitution,
18 which I understand as part of your plea agreement, you've
19 agreed to restitution. Is that correct?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Now, I can also order that you forfeit
22 property derived from the offense or used to facilitate the
23 offense. And I notice, again, as part of your plea agreement,
24 you agree to admit to the forfeiture allegation as it relates
25 to Counts One through Four of the information. Is that

M77QpatP

1 correct?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Now, finally, you must also pay a
4 mandatory special assessment of \$100 on each count, for a total
5 of \$400, and that special assessment would be due at
6 sentencing. Do you understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: So do you understand that these are the
9 maximum penalties that you face?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: And, Mr. Patel, I know I asked you this
12 earlier, but I need to ask you again, you are a United States
13 citizen. Is that correct?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Now, do you understand that you will not
16 have a right to withdraw your guilty plea based upon any actual
17 perceived immigration consequence. Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand that as a result of your
20 guilty plea, you may lose certain valuable civil rights that
21 you have, to the extent you have them or could otherwise obtain
22 them, such as the right to vote, the right to hold public
23 office, the right to serve on a jury and the right to possess
24 any kind of firearm. Do you understand that?

25 THE DEFENDANT: Yes, your Honor.

M77QpatP

1 THE COURT: Now, let me ask, Mr. Patel, are you
2 currently serving any other sentence, whether state or federal,
3 or are you being prosecuted by the state for any crime?

4 THE DEFENDANT: No, your Honor.

5 THE COURT: But my understanding is that there is a
6 parallel, is it an investigation by the Securities and Exchange
7 Commission. Is that correct?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Mr. Patel, are you currently on parole?

10 THE DEFENDANT: No, your Honor.

11 THE COURT: All right. Now, do you understand that if
12 anybody has attempted to predict for you, whether it's your
13 attorneys or the government's attorney, what your sentence will
14 be, that their prediction could be wrong. Do you understand
15 that?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Now, no one -- not your lawyer, not the
18 government's lawyers, no one -- can give you any assurance
19 concerning what your sentence will be because I'm going to
20 wait, as I mentioned, until I receive a report from the
21 probation department, your presentence report.

22 Once I receive that, I'm going to do my own
23 independent calculation of the guidelines range that applies in
24 your case, consider that range and any possible departures from
25 it, consider any submissions I get from your attorneys and from

M77QpatP

1 the government's attorneys, and also ultimately to determine
2 what a reasonable sentence is for you based only the sentencing
3 factors contained in United States Code, Section 3553(a). Do
4 you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Have you discussed these issues with your
7 attorneys?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: So what that means is even if your
10 sentence is different from what you think it should be or your
11 attorneys have told you or the government's attorneys have
12 said, you're still going to be bound by your guilty plea, and I
13 won't allow you to withdraw your guilty plea. Do you
14 understand that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Now, I do have a copy of a plea agreement
17 which is dated July 6 of this year, 2022, to your attorneys.

18 Do you have a copy of that in front of you?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: And is that an originally signed copy? In
21 other words, if you could turn to the last page, does your
22 signature appear on that page?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: And did you sign that earlier today in the
25 presence of your attorneys?

M77QpatP

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: And did you read it before you signed it?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: And did you discuss it with your attorneys
5 before you signed it?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: So did you fully understand it before you
8 signed it?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Now, you should understand that that
11 agreement is binding on yourself, it's binding on your
12 attorneys, and it's binding on the government's attorneys and
13 the government, but it's not binding on me.

14 So, as I mentioned, I have my own obligation to
15 determine what the correct guideline range is in your case and
16 ultimately to determine what an appropriate sentence is for
17 you. Do you understand that, that your plea agreement, this
18 document letter, dated July 6, 2022, that that is not binding
19 on me?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you understand also as part of your
22 plea agreement -- let me ask the government, I apologize,
23 because I wasn't -- hold on one second.

24 (Pause)

25 THE COURT: Let me ask, do you understand that you've

M77QpatP

1 agreed that in addition to the charges contained in the
2 information, that you are also agreeing that your false
3 statements to special agents of the Federal Bureau of
4 Investigation in or about March 2022, that that counts as
5 relevant conduct in connection with the crimes to which you're
6 pleading guilty? Do you understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Do you understand that your plea agreement
9 is a particular type of plea agreement; in other words, that
10 you've agreed to cooperate with the government and any agencies
11 that they direct that you cooperate with. Do you understand
12 that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: That includes meeting with them, providing
15 them with documents, answering all of their questions, and
16 answering any questions of the authorities that they ask you to
17 answer. Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Have you discussed the cooperation and the
20 requirements of cooperation with your attorneys?

21 THE DEFENDANT: Yes, your Honor, I have, your Honor.

22 THE COURT: Okay. Now, do you understand, in
23 particular, that if you comply with all of the terms of the
24 agreement, that letter dated July 6, including providing
25 substantial assistance to the government, that the government

M77QpatP

1 will make a motion on your behalf pursuant to 5K1.1 of the
2 Sentencing Guidelines and Section 3553(e) of Title 18
3 requesting that I sentence you in light of the factors
4 contained in Section 5K1.1 of the Sentencing Guidelines. Do
5 you understand that that's part of your agreement?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: However, do you understand if the
8 government determines in its sole discretion that you've not
9 complied with the terms of your agreement, that it is then
10 relieved of the requirement to make a motion on your behalf,
11 but if they don't make that motion, you're still bound by your
12 guilty plea. Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Now, do you understand that if the
15 government does not file a motion, that I cannot then make a
16 determination that you provided substantial assistance. Do you
17 understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand that even if that motion
20 is filed, that the sentence to be imposed remains in my sole
21 discretion. Do you understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: So that means that I'm going to determine
24 your sentence and not somebody else. Do you understand that?

25 THE DEFENDANT: Yes, your Honor.

M77QpatP

1 THE COURT: Now, does the plea agreement, the letter
2 dated July 6 of 2022, constitute your complete and total
3 understanding of your agreement between yourself and the
4 government?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Has anything been left out?

7 THE DEFENDANT: No, your Honor.

8 THE COURT: Now, other than what's written in the
9 agreement, has anyone made you any promise or offered you
10 anything of value, any inducement, in order to plead guilty or
11 sign the agreement?

12 THE DEFENDANT: No, your Honor.

13 THE COURT: Has anyone threatened you or forced you to
14 plead guilty or sign the agreement?

15 THE DEFENDANT: No, your Honor.

16 THE COURT: Has anyone promised you what your sentence
17 will be?

18 THE DEFENDANT: No, your Honor.

19 THE COURT: Now, Mr. Patel, I'm asking you now, after
20 going through the issues relating to your guilty plea, how do
21 you plead?

22 THE DEFENDANT: I plead guilty, your Honor.

23 THE COURT: Now, Mr. Patel, we've reached the point in
24 the proceeding when I'm going to ask you to tell me what it is
25 that you did with regard to the four counts to which you intend

M77QpatP

1 to plead guilty. So go ahead. Do you have a statement there?

2 THE DEFENDANT: Yes, I have, your Honor.

3 THE COURT: Is that a statement that you have reviewed
4 with your lawyers?

5 THE DEFENDANT: Yes, I have, your Honor.

6 THE COURT: And it's a statement that basically you
7 reviewed with your lawyers, and that you agree that this
8 describes in general terms your conduct with regard to each of
9 the counts?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Okay, go ahead.

12 THE DEFENDANT: From November 2020 to September 2021--

13 THE COURT: Take your time.

14 THE DEFENDANT: Okay. From November 2020 to
15 September 2021, I engaged in a scheme with Amit Bhardwaj --

16 THE COURT: Could you spell that for us?

17 THE DEFENDANT: Yes, your Honor. Amit, A-M-I-T.
18 Bhardwaj, B-H-A-R-D-W-A-J.

19 -- to commit insider trading. I knew at the time that
20 Mr. Bhardwaj was the chief information security officer of
21 Lumentum.

22 Mr. Bhardwaj and I agreed that I would trade in shares
23 of Coherent based on information Mr. Bhardwaj provided
24 regarding Lumentum's planned acquisition of Coherent, and share
25 profits of that trading with Mr. Bhardwaj.

M77QpatP

1 I knew that this information was not public and that
2 Mr. Bhardwaj should not have disclosed it to me.

3 I did in fact make timely, profitable trades based on
4 this information. I subsequently conveyed a share of the
5 profits to a third party, as Mr. Bhardwaj directed.

6 I executed these via an online trading platform.

7 On March 29, 2022, I was interviewed by FBI agents who
8 also gave me a grand jury subpoena issued by the Southern
9 District of New York in connection with an investigation into
10 the insider trading scheme.

11 After receiving the subpoena in about March 2022 to
12 April 2022, I met with Mr. Bhardwaj and others and agreed to
13 falsify records to obstruct the investigation.

14 We also discussed providing false information and
15 destroying evidence.

16 What I did was wrong, and I deeply regret my actions.
17 As I stand before you today, I have tremendous remorse and am
18 truly sorry for what I have done.

19 THE COURT: Okay. Thank you. Let me ask, when you
20 say you knew it was wrong, you knew it was illegal to do
21 insider trading and to agree with other people to do insider
22 trading?

23 THE DEFENDANT: Can you repeat that, your Honor?

24 THE COURT: Sure. Did you know it was illegal to
25 commit insider trading?

M77QpatP

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: And you knew it was illegal to agree with
3 other folks to commit insider trading?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: And that it was illegal to take
6 information from someone who had inside information because of
7 their job and use it to trade? You knew that was illegal?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: And then after the FBI gave you the grand
10 jury subpoena, were you asked certain questions? Did they ask
11 you questions when they met with you?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: And did you tell them the truth or did you
14 lie?

15 THE DEFENDANT: During the interview, I lied to the
16 agents.

17 THE COURT: I'm not saying about everything, but you
18 lied about certain things. Is that correct?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Let me ask, what is the government's
21 evidence with regard to venue?

22 MR. SOLOWIEJCZYK: Sure, your Honor. We have a
23 proffer on venue we're happy to provide.

24 So with respect to Counts One through Three, we would
25 prove venue, among other ways, by a preponderance of the

M77QpatP

1 evidence based on the fact that the relevant security that
2 Mr. Patel was trading in Coherent is traded on the NASDAQ, and
3 NASDAQ is headquartered in the Southern District of New York.

4 We'd also show that certain executing brokers for
5 certain of the relevant stock transactions in Coherent stock by
6 the defendant, that those brokers are based in Manhattan.

7 And we'd also show that DTCC, which I believe is
8 Depository Trust Clearing Corporation, they're based in
9 Manhattan, and they cleared many of the relevant transactions.

10 As to the obstruction conspiracy, we would prove
11 venue, among other means, by the fact that the defendant was
12 aware that he was obstructing an S.D.N.Y.-based grand jury
13 investigation.

14 THE COURT: Mr. Patel, you were aware that when you
15 were handed the subpoena, that was from the folks in the U.S.
16 Attorney's Office in the Southern District of New York, you
17 knew that?

18 THE DEFENDANT: Yes, sir, your Honor.

19 THE COURT: All right. Let me ask, Mr. Gumaste and
20 Mr. Kim, do you know of any valid defense that would prevail at
21 trial or do you know of any reason I should not allow your
22 client to be permitted to plead guilty at this time?

23 MR. GUMASTE: No, your Honor.

24 THE COURT: Let me ask the government, are there any
25 additional questions I should ask? Is there anything that I

M77QpatP

1 have missed?

2 MR. SOLOWIEJCZYK: Your Honor, you may have covered
3 this already, so I apologize. I'm not sure I heard you ask if
4 he was satisfied with his attorneys' representations. You may
5 have asked that and I missed it.

6 THE COURT: Yes, it doesn't matter. Let me ask,
7 Mr. Patel, are you satisfied with your attorneys'
8 representation?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Okay. Anything else?

11 MR. SOLOWIEJCZYK: No, your Honor.

12 THE COURT: If I could ask if the government could
13 please summarize what the evidence would have been had
14 Mr. Patel proceeded to trial.

15 THE DEFENDANT: Your Honor, the evidence would have
16 consisted, among other things -- it would consist of, among
17 other things, trading records showing the timely nature of the
18 trades, phone records showing timely phone contact between
19 Mr. Patel and the source of the insider information, and then,
20 among other things, it would also consist of records that were
21 obtained pursuant to judicially authorized search warrants of
22 both Mr. Patel's devices, as well as his electronic -- or
23 electronic accounts of others that participated in the
24 conspiracy.

25 THE COURT: Mr. Patel, did you hear what the

M77QpatP

1 prosecutor just said?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you understand that by pleading guilty,
4 you're giving up your right to challenge all of the evidence
5 the prosecutor just mentioned?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Let me ask, do counsel agree there's a
8 sufficient factual predicate for the guilty plea. The
9 government.

10 MR. SOLOWIEJCZYK: Yes, your Honor.

11 THE COURT: The defense.

12 MR. GUMASTE: Yes, your Honor.

13 THE COURT: Does either counsel know of any reason I
14 should not accept Mr. Patel's plea of guilty?

15 MR. SOLOWIEJCZYK: No, your Honor.

16 MR. GUMASTE: No, your Honor.

17 THE COURT: Mr. Patel, because you acknowledge that
18 you are in fact guilty of the counts charged in the information
19 Counts One, Two, Three and Four, because I'm satisfied that you
20 know your rights, including your right to go to trial, and that
21 you're aware of the consequences of your plea, including the
22 sentence which may be imposed, and because I'm finding that
23 you're knowingly and voluntarily pleading guilty, I'm going to
24 accept your plea of guilty and enter a judgment of guilty on
25 Counts One, Two, Three and Four of the information.

M77QpatP

1 Now, when it gets time closer to the time of your
2 sentencing, the probation department is going to want to
3 interview you, and I take it counsel for defense will want to
4 be there?

5 MR. GUMASTE: Yes, your Honor.

6 THE COURT: Now, that interview won't take place
7 unless your attorneys are there, and it won't take place
8 immediately because of the nature of your plea. But I'm going
9 to ask you that when you do speak to probation, that everything
10 that you tell them should be truthful, and that when you do
11 receive a copy of the report, that you go over it with your
12 attorneys to make sure it's accurate because I'm going to rely
13 on that report in connection with determining what an
14 appropriate sentence is for you. Okay?

15 THE DEFENDANT: Okay, your Honor.

16 THE COURT: All right. So I think it makes sense to
17 set a control date approximately six months out. Does that
18 work for the government?

19 MR. SOLOWIEJCZYK: Yes, your Honor.

20 THE COURT: Ms. Rodriguez, if we could have a control
21 date six months from today.

22 DEPUTY CLERK: January 6, 2023.

23 THE COURT: January 6, 2023. That's just a control
24 date, Mr. Patel, so it's not a date unless all of your
25 cooperation is done and the government has indicated that to

M77QpatP

1 me, and your attorneys have indicated that to me, and your
2 presentence report is done.

3 In all likelihood, that won't be in six months, so you
4 won't be sentenced on that date, but your attorneys and the
5 government will be required to communicate with me to let me
6 know the status of your case. Okay?

7 THE DEFENDANT: Okay, your Honor.

8 THE COURT: Now in light of the nature of the
9 agreement, the government's obligation to provide a factual
10 statement to probation is going to be held in abeyance, as will
11 any interview of you in connection with the preparation of a
12 presentence report.

13 When it does come time for sentencing, I think it also
14 makes sense it will be inverted because typically defense
15 counsel waits until the government makes a decision on the
16 issue of a 5K letter. So the government will supply that to me
17 approximately two weeks in advance, and the defense, their
18 submission approximately one week in advance.

19 Let me ask, is there anything other than -- well, let
20 me say, I've been handed a sealed affirmation and application
21 relating to the certain of materials that we've discussed
22 today, as well as the transcript and also a sealing order. So
23 I'm dating the sealing order today, and I'm signing it so the
24 government can -- so that materials relevant today outlined in
25 the sealing order can remain under seal and can be disclosed

M77QpatP

1 consistent with the order as indicated.

2 With regard to the transcript, the parties here can
3 obtain a copy of the transcript, but it will otherwise remain
4 sealed until further notification by the parties that it should
5 be unsealed.

6 MR. SOLOWIEJCZYK: And, your Honor, the application
7 also includes delayed docket entries. I know it's in there,
8 but I'm just noting it for the record.

9 THE COURT: Sure. So that the materials will not be
10 docketed until such time as the case is unsealed, and there
11 will be delayed docketing here.

12 Now, any other issues with regard to the guilty plea?
13 I was going to proceed to the bail issue.

14 MR. SOLOWIEJCZYK: Not from the government, your
15 Honor.

16 MR. GUMASTE: Not from defense.

17 THE COURT: All right. Thank you.

18 So I have a copy of the pretrial services report. Let
19 me ask, in connection with today's proceeding, has Mr. Patel
20 been processed, first, by the arresting agency and then by the
21 United States Marshals?

22 AGENT AVERY: Yes, your Honor.

23 THE COURT: But by the marshals also?

24 AGENT AVERY: Yes, sir.

25 THE COURT: Fantastic. So I have the pretrial

M77QpatP

1 services report which recommends pretrial service supervision
2 as directed, surrender of travel documents, and to make no new
3 applications, and that travel be restricted to the Southern
4 District and Eastern Districts of New York and the Northern
5 District of California and points in between. I take it that
6 would be points in between utilizing air travel, or does it
7 matter one way or the other? In other words, because that
8 includes all --

9 MR. SOLOWIEJCZYK: Your Honor, yes, it would be air,
10 so sort of where you take off and where you land, and we
11 actually have some very modest proposed modifications to the
12 districts that would be permissible for him to travel.

13 THE COURT: Why don't you go ahead.

14 MR. SOLOWIEJCZYK: In addition to Northern District of
15 California, Eastern District of New York and Southern District
16 of New York, the parties would jointly propose that the
17 districts include -- that he can travel to would include
18 District of New Jersey, at times he flies in and out of Newark,
19 and then also the Eastern District of California because our
20 understanding is that Mr. Patel actually lives very close to
21 the border of the Northern District of California and the
22 Eastern District of California.

23 THE COURT: So is that consistent with the defense's
24 understanding?

25 MR. GUMASTE: It is, your Honor.

M77QpatP

1 THE COURT: We'll add the district of New Jersey and
2 the Eastern District of California to the points to which
3 travel is restricted, including the others that I've mentioned.

4 Now, is there agreement to the terms otherwise -- so
5 the other condition that pretrial services recommends is that
6 Mr. Patel be released on a bond cosigned by two financially
7 responsible persons and then with the conditions I just
8 mentioned. Is that consistent with the parties' understanding?

9 MR. SOLOWIEJCZYK: Yes, your Honor. We have a jointly
10 proposed package for your Honor, which is largely consistent
11 with what pretrial has recommended.

12 THE COURT: Okay.

13 MR. SOLOWIEJCZYK: The package would consist of a
14 \$175,000 personal recognizance bond. It would be cosigned by
15 two financially responsible persons, and it would be secured by
16 \$17,500. Defendant would surrender his passport and travel
17 documents and make no new applications.

18 Pretrial services has directed, and I believe we
19 already covered the travel restrictions. In terms of the
20 timing, the defendant would have one week to post the \$17,500
21 security, and then the defendant would be given 30 days to
22 locate two financially responsible persons to cosign the bond.

23 That's the proposal from the parties, your Honor.

24 THE COURT: Just to be clear, \$175,000 personal
25 recognizance bond cosigned by two financially responsible

M77QpatP

1 people. The bond will be secured by \$17,500. That will be
2 due, that condition must be met within a week from today.

3 Defendant is to surrender his passport and travel
4 documents and the pretrial services as directed, as well as the
5 restrictions on travel that I mentioned: S.D.N.Y., E.D.N.Y.,
6 Northern District of California, District of New Jersey, and
7 Eastern District of California, pretrial services supervision
8 as directed. And then with regard to the two financially
9 responsible individuals, 30 days in order to meet that
10 requirement.

11 MR. SOLOWIEJCZYK: That's right, your Honor, and the
12 defendant could be released today on his own signature.

13 THE COURT: All right. Is that consistent with the
14 defense's understanding?

15 MR. GUMASTE: It is, your Honor.

16 THE COURT: I believe that based upon the nature and
17 circumstances of this case, and Mr. Patel's ongoing
18 cooperation, that this is an appropriate bail package that has
19 to be met, and that Mr. Patel can be released today on his own
20 signature of the bond.

21 Let me ask, is there anything else that we need to
22 take care of today?

23 MR. SOLOWIEJCZYK: Not from the government, your
24 Honor.

25 THE COURT: All right. From the defense?

M77QpatP

1 MR. GUMASTE: No, your Honor.

2 THE COURT: All right. Thank you very much. We'll
3 stand adjourned.

4 Does the government need the originally signed, this
5 copy of the cooperation agreement?

6 MR. SOLOWIEJCZYK: We have our own copy if your Honor
7 wants to keep it, or we can take it back, whatever your Honor
8 prefers.

9 THE COURT: I'd probably like a copy to put in our
10 electronic file for this case. So what we'll do is we will
11 make a copy and then shred the original, all right?

12 MR. SOLOWIEJCZYK: Thank you, your Honor.

13 THE COURT: And we'll take care of filing the other
14 paperwork in the case.

15 MR. SOLOWIEJCZYK: Your Honor, would it be possible to
16 have your Honor sign a second copy of the sealing order that we
17 could keep for our records? I have an extra copy right here I
18 can pass it up.

19 THE COURT: That would be fine. I probably misspoke
20 when I said we'll take care of filing things. Nothing is going
21 to get filed.

22 MR. SOLOWIEJCZYK: Understood, your Honor.

23 THE COURT: So let me just ask off the record for a
24 moment?

25 (Discussion off the record)

M77QpatP

1 THE COURT: Although we're not going to file anything,
2 we will be able to get a docket number, so it will be 22 CR
3 whatever the number is.

4 MR. SOLOWIEJCZYK: Understood.

5 THE COURT: Anything else?

6 MR. SOLOWIEJCZYK: No. Thank you, your Honor.

7 THE COURT: Anything else from the defense?

8 MR. GUMASTE: No, your Honor. Thank you.

9 THE COURT: Thank you. We'll stand adjourned.

10 (Adjourned)
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